by a court to be within the term "foreign policy" but may well be considered within the standard "national security," since the insurance by executive action of the basic economic strength of the country has been stated to be in the interest of national security. (See 19 U.S.C., Supp. V, 1862, a part of the Trade Expansion Act of 1962.)

Furthermore, the requirement that an Executive order be used as the mechanism by which the executive branch carries out its necessary and important functions in this regard adds a heavy and unnecessary burden upon the President and an intolerable one if the particular matter has to be specifically identified in the order.

Exemption (2).—This exemption reduces the existing exemption for matters "relating solely to the internal management of an agency" to matters related "solely to internal personnel rules and practices." It reflects the view that all other internal management operations of the Government should be disclosed to any person at all. But internal operations include many matters which are of no public interest or which should not be made readily available, as a few examples will illustrate.

As we read the present exemption, it would not protect the Treasury Department if it refused to detail in advance the method it intended to employ in protecting the movement of currency from the Bureau of Engraving and Printing to its own cash room in the main building. Apparently, upon demand, the Treasury would have to supply the records of how it proposed to use its guard force.

Nor is our concern in this area merely speculative. The Washington Post of March 13, 1965, carried an article which dealt with the question of whether the White House has a musical "jamming" system with which the President can foil attempts at electronic eavesdropping of his telephone conversations. The article quotes a highly placed source as saying, "Look, if there were such a device it isn't likely we would talk about it." The proposed legislation would apparently make the executive branch talk about it.

The Department recommends that this exemption be revised to exempt any matter relating solely to the internal management or procedure of an agency.

Exemption (3).—This provision exempts from disclosure records and information that is "* * * specifically exempted from disclosure by statute." The Criminal Code in 18 U.S.C. 1905 penalizes any U.S. officer or employee who discloses to any extent "not authorized by law" various enumerated matters including trade secrets, other business operations, amount of income, profits, expenditures and related matters. The Internal Revenue Code in 26 U.S.C. 7213 (a) and (b) penalizes disclosure by any U.S. officer or employee to any extent "not provided by law" of any income information disclosed in an income return or any operations of any business visited by him in the discharge of his duties. It is not clear whether the first sentence in the proposed 5 U.S.C. 22(b) is an authorization by law to disclose information otherwise protected by 18 U.S.C. 1905 and 26 U.S.C. 7213 (a) and (b)—18 U.S.C. 1905 should not be destroyed. Since its enactment in 1894 it has been essential to the administration of Federal laws. The prohibition in 26 U.S.C. 7213, with the limitations in 26 U.S.C. 6103, has been essential in the administration of our self-assessment tax system since the first income tax in 1913. Taxpayers place confidence in the protection it affords to the financial information they readily disclose. It is urged that exemption (3) cover matters that are "prohibited from disclosure by statute," and that the legislative history should show that these two penalty statutes remain effective.

Exemption (4).—This exemption is helpful but, as has been indicated, does not include the trade secrets of the Government which are the fruit of its research, development, and manufacture. Moreover, as respects private information, it is not clear how its status as privileged or confidential is determined. It should be pointed out that the word "privilege" commonly relates to a circumstance arising out of a relationship between persons. It does not normally relate to the status of the facts themselves. Thus, information given by client to his attorney, or by a patient to his doctor, is privileged because of the relationship between the parties—not because of the nature of the information. If the bill means that information obtained by the Government under a pledge of confidentiality, or information which is tendered to the Government in confidence, should be treated in such a way that the confidence should be respected, this should be made clear. If it does not mean this, whatever else it means should be made explicit.

Exemption (5).—This exemption for interagency or intra-agency memorandums or letters dealing "solely" with law or policy is so unrealistic as to be almost useless as an exemption. Most interagency and intra-agency communications